IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5203 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BHAGABHAI S BARIYA

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 14/06/2000

ORAL JUDGEMENT

Rule. Learned counsel Mr. G.K. Rathod appearing on behalf of the respondent waives service of rule.

2. Present petition has been filed against the judgment & award passed by the Labour Court, Nadiad in Reference (LCN) No. 273 of 1996 dated 4-1-1999. The respondent Bhagabhai S. Bariya was working as Conductor with GSRTC. On 2-11-1994 the bus in which he was working as conductor was checked and was found that inspite of collecting fare of Rs. 202-00 he has not issued tickets to certain passengers. On this allegation departmental inquiry was held and in the inquiry the charges were proved and the disciplinary authority on the basis of the report of the Inquiry Officer and after considering materials on record dismissed the respondent from service. Having felt aggrieved, the respondent moved the Labour Court and Labour Court, Ahmedabad after hearing the parties set aside the order of termination and reinstated the respondent to the post of conductor. However the Labour Court withheld one increment permanently of the respondent. Having felt aggrieved by the order of the Labour Court, GSRTC (Corporation) has filed the present petition for quashing the order of the Labour Court.

3. I have heard Mrs. Vasavdatta Bhatt, learned counsel appearing on behalf of the petitioner Corporation and Mr. G.K. Rathod, learned counsel on behalf of the respondent. Learned counsel for the petitioner submitted that the respondent was involved in misappropriation of public money and when the charges were proved against him the disciplinary authority has rightly dismissed the respondent from service. It is also submitted by learned counsel for the petitioner that, a person who is indulging in misappropriation of public money should not be retained in service, and it would be danger to the Corporation if such person is continued in employment. Learned counsel consequently submitted that no irregularity has been committed by dismissing the service of the respondent. It is further submitted that the Labour Court has committed an error in modifying order of punishment. It is submitted that when charges have been proved, Labour Court should not have been interfered with the punishment imposed by the disciplinary authority.

4. Learned counsel for the respondent submitted that the respondent has not challenged legality or otherwise of the disciplinary proceedings, but he is aggrieved with the punishment imposed by the disciplinary authority. It is submitted by learned counsel for the respondent that in the instant case an amount of Rs. 202-00 is involved and for misappropriation of such an small amount the respondent do not deserve punishment of dismissal from service. Moreover since it is first incidence he should

have been given scope for rectification and thereafter he would have served well in the Corporation. Learned counsel for the respondent further submitted that the Labour Court has reinstated the petitioner considering the fact that it is disproportionate to the alleged charges.

5. I have gone through the papers and records of the case. It is true that the charges against the petitioner has been proved for misappropriation of public money amounting to Rs. 202-00. But since it is his first offence and considering the amount involved in the case, I am also of the view that the respondent deserve punishment short of dismissal. Withholding of one increment by the Labour Court appears to be inadequate when misappropriation of public money is involved. After hearing learned counsel of both the parties, and after going through the papers and documents, I am of the view that, withholding of four increments with cumulative effect will serve the interest of justice. Accordingly the award of the Labour Court is modified to the extent that four increments of the respondent shall be withheld with cumulative effect.

6. It is submitted by learned counsel for the respondent that, even after the award of the Labour Court the respondent has not been reinstated in service. Learned counsel for the petitioner very fairly submitted that, she undertakes to see that the respondent is reinstated within fifteen days from the date of receipt of this order. In view of the undertaking given by learned counsel for the petitioner, I am of the view that no order in this respect is required to be passed. With the aforesaid observations and directions present petition is disposed of. I make no order as to cost. Rule made absolute to the aforesaid extent. Respondent may serve copy of this order to the Corporation. Direct service permitted.

DT: 14-6-2000

(P.K. Sarkar, J)

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